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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:

ZACKY FARMS, LLC, a
California limited liability
company,

Debtor-In-Possession.

CASE NO. 12-37961-B-11

DCNs: FWP-1, FWP-2, FWP-3, FWP-4
FWP-5, FWP-6, FWP-7, FWP-8

Hearings on First Day Motions:

Date: October 11, 2012

Time: 1:30 p.m.

Courtroom: 32
501 I Street, 6th Floor
Sacramento, CA

Final Hearing on FWP-1:

To be Set

**AMENDED OMNIBUS NOTICE OF EMERGENCY HEARINGS ON DEBTOR'S FIRST DAY
MOTIONS**

**NOTICE IS HEREBY GIVEN THAT THE DEBTOR IS REQUESTING THAT THE NEW DIP
FACILITY LIENS BE SENIOR TO AND PRIME THE FOLLOWING LIENS: (A) ORIGINAL
CREDIT FACILITY (AS DEFINED HEREIN) LIENS; (B) THE LIENS OF WESTERN MILLING
LLC; (C) ANY UNRECORDED LIENS ON PRE-PETITION ASSETS; (D) PRE-PETITION
CONTRACT GROWER LIENS; AND (E) PARTIES WHO MAY HOLD PRE-PETITION
SECURED SET-OFF CLAIMS**

NOTICE IS HEREBY GIVEN that Zacky Farms, LLC, the debtor and debtor in
possession herein (the "Debtor" or "Zacky Farms"), has or will shortly file the motions
designated by Docket Control Numbers FWP 1 thorough 8 as described below (the "Emergency
Motions") seeking entry of orders granting the relief described below and as set forth in the
proposed orders attached to the Exhibit Document filed in support of the Emergency Motions
(the "Exhibit Document") and such other relief as is just and appropriate given the

circumstances of the Emergency Motions and this Case.

NOTICE IS FURTHER GIVEN that the hearings on the Emergency Motions are scheduled before the Honorable Thomas C. Holman on Thursday, October 11, 2012, at 1:30 p.m. at the United States Bankruptcy Court, Eastern District of California, Sacramento Division, located at 501 I Street, 6th Floor Courtroom 32, Sacramento, California. 95814 (the “First Day Hearings”).

The Emergency Motions are supported by the Declaration of Keith F. Cooper filed with the Court on October 9, 2012, as Docket No. 5 (the “Cooper Declaration”). The titles of each of the Emergency Motions followed by a brief description of the relief requested in each Emergency Motion are as follows:

(FWP-1) DEBTOR’S EMERGENCY MOTION FOR INTERIM ORDER (I) AUTHORIZING DEBTOR (A) TO OBTAIN POST-PETITION FINANCING PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(d) AND 507 AND (B) TO UTILIZE CASH COLLATERAL PURSUANT TO 11 U.S.C. § 363, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED LENDER PURSUANT TO 11 U.S.C. §§ 361, 362, 363, 364, AND 507, (III) MODIFYING THE AUTOMATIC STAY AND (IV) SCHEDULING FINAL HEARING

By this Motion the Debtor is requesting that the Court enter an order granting the relief set forth in the proposed Order attached to the Exhibit Document as Exhibit A. A brief description of the relief requested is

Loan Provision	Description
DIP Facility Ceiling	\$71,000,000
Term	From entry of interim order through January 31, 2013
Interest Rate	6.00 % per annum
Costs	all out of pocket costs, fees and expenses
Fees	A Front-End Fee of 3.00% of DIP Facility Ceiling funded on entry of interim order, an unused line fee of 1.5% per annum, and a Collateral Monitoring Fee of \$50,000 per month
Liens	First priority liens on all pre and post petition assets of the debtor subject to only the approximately \$4 million of deeds of trust on real estate collateral and the equipment lien of Robert Reiser & Co., Inc. (the “Permitted Debt”)
Priming	The DIP Facility shall prime all secured claims except the Permitted Debt
Sale Process	There is a requirement of the commencement of an immediate sale process to sell the Company as a going concern

(FWP-2) DEBTOR'S EMERGENCY MOTION FOR ORDER AUTHORIZING PAYMENT OF PRE-PETITION WAGES, PAYROLL TAXES, CERTAIN EMPLOYEE BENEFITS AND RELATED EXPENSES, AND OTHER COMPENSATION TO EMPLOYEES

By this Motion the Debtor is requesting that the Court enter an order granting the relief set forth in the proposed Order attached to the Exhibit Document as Exhibit B. In brief, the Debtor requests an Order authorizing but not directing it to pay and honor all Employee Obligations¹ including, without limitation, the following Employee Obligations: (i) wages, salary and other compensation; (ii) payroll taxes; (iii) vacation and sick day programs; (iv) qualified 401(k) plan obligations; (v) health and welfare benefits; (vi) expense reimbursements; and (vii) other benefit programs.

(FWP-3) DEBTOR'S EMERGENCY MOTION FOR AUTHORITY TO CONTINUE PRE-EXISTING SELF-FUNDED WORKERS' COMPENSATION PLAN AND TO PAY PRE-PETITION WORKERS' COMPENSATION CLAIMS AND RELATED OBLIGATIONS

By this Motion the Debtor is requesting that the Court enter an order granting the relief set forth in the proposed Order attached to the Exhibit Document as Exhibit C. In brief, the Debtor is requesting an order authorizing, but not directing it, to maintain and continue the Workers Comp Plan, including the payment of claims of injured employees in accordance with the Workers Comp Plan (with such payments not to exceed \$4,527,562 in the aggregate) and other amounts necessary to maintain the Workers Comp Plan.

(FWP-4) DEBTOR'S EMERGENCY MOTION FOR AUTHORITY TO (A) MAINTAIN EXISTING BANK ACCOUNTS AND CONTINUE USE OF EXISTING CASH MANAGEMENT SYSTEM, (B) CONTINUE USE OF EXISTING BUSINESS FORMS, AND (C) CONTINUE EXISTING INVESTMENT PRACTICES

By this Motion the Debtor is requesting that the Court enter an order granting the relief set forth in the proposed Order attached to the Exhibit Document as Exhibit D. In brief, the Debtor is requesting an order authorizing it to: (a) designate, maintain, and continue to use any and all existing bank accounts with the same account numbers, including, without limitation, the

¹ Unless otherwise indicated, all defined terms shall have the meanings ascribed to them in the Emergency Motions

1 accounts identified in Exhibit A to the Motion; (b) treat the bank accounts for all purposes as
2 accounts of the Debtor as debtor-in-possession; (c) continue to use its existing cash management
3 system; (d) continue use of existing business forms; and (d) continue existing investment
4 practices.

5 **(FWP-5) DEBTOR'S EMERGENCY MOTION FOR AN ORDER AUTHORIZING**
6 **DEBTOR TO HONOR PREPETITION OBLIGATIONS TO GROWERS**

7 By this Motion the Debtor is requesting that the Court enter an order granting the relief set
8 forth in the proposed Order attached to the Exhibit Document as Exhibit E. In brief, the Debtor is
9 requesting an order authorizing, but not directing, it to pay and honor all obligations that have
10 accrued by virtue of the services rendered by the Growers pursuant to the Grower Arrangements
11 ("Grower Obligations") prior to the Petition Date. This may include paying for the feed for the
12 birds being grown by these contract growers for the Debtor. The basis for the payment is a
13 statutory trust over the birds under their care under the Poultry Producers Financial Protection Act
14 of 1987.

15 **(FWP-6) DEBTOR'S EMERGENCY MOTION FOR ORDER AUTHORIZING THE**
16 **DEBTOR TO MAINTAIN AND ADMINISTER CUSTOMER PROGRAMS AND HONOR**
17 **CERTAIN PREPETITION OBLIGATIONS RELATED THERETO**

18 By this Motion the Debtor is requesting that the Court enter an order granting the relief set
19 forth in the proposed Order attached to the Exhibit Document as Exhibit F. In brief, the Debtor is
20 requesting an order authorizing, but not directing, it to honor and pay the Obligations required to
21 maintain and administer the Customer Programs and authorizing, but not directing, it to re-issue
22 checks for customer refunds (and returned check charges related to the same) in the event that
23 refund checks issued by the Debtor before the Petition Date were returned by the bank or other
24 financial institutions.

25 **(FWP-7) DEBTOR'S EMERGENCY MOTION FOR ORDER ESTABLISHING NOTICE**
26 **AND ADMINISTRATIVE PROCEDURES**

27 By this Motion the Debtor is requesting that the Court enter an order granting the relief set
28 forth in the proposed Order attached to the Exhibit Document as Exhibit G. In brief, the Debtor is
requesting an order authorizing it establish a master service list that shall initially include the

1 following parties-in-interest: (i) the Office of the United States Trustee for the Eastern District of
2 California; (ii) the Debtor; (iii) the attorneys for the Debtor; (iv) the Debtor's twenty (20) largest
3 unsecured creditors, or the attorneys for an Unsecured Creditors' Committee if one has been
4 appointed; (v) the attorneys for any other committee appointed by the Court; (vi) the attorneys for
5 the Debtor's pre-petition secured lenders; (vii) those persons who have formally appeared and
6 requested service in this case pursuant to Bankruptcy Rule 2002 of the Federal Rules of
7 Bankruptcy Procedure and (viii) the Internal Revenue Service, the State of California Attorney
8 General the United States Attorney, the Food and Drug Administration, the Department of
9 Agriculture, the Environmental Protection Agency, the Occupational Safety and Health
10 Administration, and corresponding state agencies, as well as other governmental agencies, to the
11 extent required by the Bankruptcy Rules and the Local Rules.

12 **(FWP-8) DEBTOR'S EMERGENCY MOTION FOR ORDER GRANTING MOTION TO**
13 **EXTEND TIME TO FILE SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS**

14 By this Motion the Debtor is requesting that the Court enter an order granting the relief
15 set forth in the proposed Order attached to the Exhibit Document as Exhibit H. In brief, the
16 Debtor is requesting an order extending the time within which the Debtor is required to file its
17 Schedules and Statement of Financial Affairs up to and including December 15, 2012.

18 **NOTICE IF FURTHER GIVEN** that the Debtor requests that the Court enter the
19 proposed Orders granting the Emergency Motions attached as Exhibits 1-8 to the Exhibit
20 Document filed and served herewith;

21 **NOTICE IS FURTHER GIVEN** that the Debtor also requests that the Court set final
22 hearings for the week of October 22, 2012 for approval of further use of cash collateral, approval
23 of the Cash Collateral Budget, and any other further hearings on the Emergency Motions. You
24 will receive notice of the date of any further or final hearings on the Emergency Motions at a later
25 time.

26 **NOTICE IS FURTHER GIVEN** that this notice does not contain all the particulars of
27 the Emergency Motions or supporting documents for the Emergency Motions nor does it
28 summarize all of the evidence submitted in support of the Emergency Motions. For further

specifics concerning the Emergency Motions and relief requested, you are encouraged to review the Emergency Motions which will be filed on or before 1:30 p.m. on October 10, 2012, and the supporting evidence including the Cooper Declaration, copies of which may be obtained from the Office of the Clerk of the Court, at 501 I Street, Sacramento, Suite 3-200, California 95814. You may also access these documents from the Court's Pacer system (requires a subscription) and the web page address for the United States Bankruptcy Court for the Eastern District of California is: <http://www.caeb.uscourts.gov/>. Counsel for the Debtor will also post this Notice, the Emergency Motions and supporting documents on its web page, which may be accessed as follows: go to www.ffwplaw.com, then click cases (to the left), follow directions on how to log in;² then click Zacky Farms, LLC; and then click on the document that you would like to review.

NOTICE IS FURTHER GIVEN that any opposition to the granting of the relief sought at the First Day Hearings may be presented at the First Day Hearings. If you oppose the relief requested at the First Day Hearings, failure to appear may constitute a waiver of your objections.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

For a charge, telephonic court appearances may be arranged by contacting Court Call at (866) 582-6878. If you plan to appear by telephone, please contact Court Call at least 24 hours in advance of the hearing if possible given the timing of this notice.

Dated: October 9, 2012

FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP

By /s/ Thomas A. Willoughby
Thomas A. Willoughby
Proposed Attorneys for Zacky Farms, LLC,
Debtor-in-Possession

² Input email as "cases@ffwplaw.com" (without quotes) and then input password "password" (again without quotes). Then click on the "Log In" button.